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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,387	02/07/2001	Toshiaki Shinohara	1900/00020	3991

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Morris Liss  
Pollock Vande Sande & Amernick  
PO Box 19088  
Washington, DC 20036-3425

EXAMINER
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DESIR, JEAN WICEL

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/762,387

Applicant(s)

SHINOHARA ET AL.

Examiner

Jean W. Désir

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3-6, 10 and 13-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5 and 13-26 is/are allowed.
- 6) ☒ Claim(s) 6 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 10, 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Eto et al (US 5,701,581). (*This is the same rejection mailed on 8/28/03*).

#### **Claim 10:**

The claimed “A transmission control method in data transmission of compressed image data, comprising the steps of setting a data amount of image data including I frame constituting the compressed image to a value lower than a transmissible data amount, and providing free time up to arrival of the next data group” is disclosed, see Eto at Fig. 18 items 302, 303, Fig. 19, where Eto teaches a transmission control method (Figs. 18, 19) in data transmission of compressed image data (Fig. 18 item 306), that has the steps of setting a data amount of image data (items 304 of Fig. 19 for instance) including I frame constituting the compressed image to a value lower than a transmissible data amount (items 305' of Fig. 19 for instance), and providing free time (

the free time between items 304 and 305' for instance) up to arrival of the next data group.

**Claim 6:**

The claimed "A data transmission control system, for use in a case wherein a plurality of devices for transmitting and a plurality of devices for receiving compressed image data are connected with each other over a network, said system being arranged such that when the compressed image data received on the receiving device is switched over, it is requested to send out I frame of compressed image data constituting the compressed image to the device for sending the compressed image data to be received newly, and compressed image data of I frame is transmitted within the shortest time to the receiving device" is disclosed, see Eto at Fig. 18 items 301, 302, 303, col. 22 line 11 to col. 23 line 15, where Eto clearly teaches the claimed limitations.

***Response to Arguments***

3. Applicant's arguments with respect to claims 6 and 10 have been fully considered but they are not persuasive.

Applicants argue on pages 11 and 12 of the REMARKS that "the present invention defined by claim 10 aims to prevent a decoder from breaking down due to large amount of data caused by insertion of "I" frames when switching between data streams. ...., whereas in the present invention, data stream amount is controlled at the encoder side." And the Applicants continue arguing that "On the contrary, according to the present invention the amount of data of "P" pictures is slightly reduced so that the

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decoder will be able to decode video data with margin time even if the data amount increases due to the insertion of "I" frames on switching." These arguments are not persuasive, because Applicants argue limitations that are not in claim 10 or 6, for instance the limitation "to prevent a decoder from breaking down due to large amount of data caused by insertion of "I" frames when switching between data streams" is not claimed in claim 10 or 6 as argued by the Applicants; claims 10 and 6 are clearly disclosed by Eto as claimed and as pointed out in the above rejection. Thus, Applicants argue limitations that are not in the claims; these arguments are not persuasive because the specification is not the measure of invention. Therefore, limitations contained therein can not be read into the claims for the purpose of avoiding the prior art. See *In re Sporck*, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1968).

#### ***Allowable Subject Matter***

4. Claims 3-5, and 13-26 are allowed.

#### **Conclusion**

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean W. Désir whose telephone number is (703) 308 9571. The examiner can normally be reached on 5/4/9 - First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (703) 305 4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**JWD**  
Jan. 21, 05

  
**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**